

RECEIVED

2013 OCT 10 PM 4:43

IDAHO PUBLIC
UTILITIES COMMISSION

LISA D. NORDSTROM
Lead Counsel
lnordstrom@idahopower.com

October 10, 2013

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case No. IPC-E-13-09
Glanbia Foods, Inc.'s Petition – Idaho Power Company's Petition for
Clarification and/or Reconsideration of Order No. 32893

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies of Idaho Power Company's Petition for Clarification and/or Reconsideration of Order No. 32893.

Sincerely,



Lisa D. Nordstrom

LDN:csb
Enclosures

LISA D. NORDSTROM (ISB No. 5733)
JULIA A. HILTON (ISB No. 7740)
Idaho Power Company
1221 West Idaho Street (83702)
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-5825
Facsimile: (208) 388-6936
lnordstrom@idahopower.com
jhilton@idahopower.com

RECEIVED
2013 OCT 10 PM 4:43
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)	
GLANBIA FOODS, INC. FOR)	CASE NO. IPC-E-13-09
APPROVAL OF A LINE EXTENSION)	
ALLOWANCE PURSUANT TO IDAHO)	IDAHO POWER COMPANY'S
POWER COMPANY'S RULE H.)	PETITION FOR CLARIFICATION
)	AND/OR RECONSIDERATION OF
)	ORDER NO. 32893
)	

Idaho Power Company ("Idaho Power" or "Company"), petitioner herein, pursuant to RP 33, 325, and 331, *et seq.*, and *Idaho Code* § 61-626, respectfully petitions the Idaho Public Utilities Commission ("Commission") for clarification and/or reconsideration of final Order No. 32893, dated September 19, 2013, issued in Case No. IPC-E-13-09 ("Order"). Idaho Power seeks clarification of the following issues: (1) calculation of the allowance, (2) reservation of excess capacity and requirements of Glanbia Foods, Inc. ("Glanbia") to provide forecasted load information, and (3) collection of Vested Interest payments from customers subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). To the extent that the Commission believes the requested

clarification goes beyond the scope of a clarification, then Idaho Power respectfully requests reconsideration of the issues identified herein. See RP 325.

I. BACKGROUND

On April 5, 2013, Glanbia filed its Petition with the Commission asking for approval of an allowance pursuant to Idaho Power's Rule H. Glanbia asked the Commission to require the Company to (1) provide it an allowance of \$2,318,000, (2) provide it with Vested Interest in the newly upgraded facilities, (3) compensate it for the freed up capacity in the abandoned facilities, and (4) competitively bid the project and provide Glanbia with audited records of the same.

On April 26, 2013, the Company filed its response to Glanbia's Petition. The Company clarified its treatment for Large General Service, Schedule 19, customers' requests for transmission and substation upgrades, differentiating these requests from the types of requests handled by the Company under Rule H. The Company asserted that Rule H was not applicable and Glanbia's request should be denied.

On June 5, 2013, the Commission Staff ("Staff") and Glanbia filed Comments in this case. Staff argued for an allowance for Glanbia based on an embedded rate methodology which they had previously supported in Case No. IPC-E-08-22 and argued the Company should provide a Vested Interest on the transmission line. Glanbia reiterated its positions stated in its Petition.

On June 14, 2013, the Company filed its Reply Comments, maintaining that both Staff and Glanbia ignored the fact that Rule H does not apply to transmission or substation facilities. The Company clarified its position regarding treatment of customers' requests for transmission and substation upgrades, reiterating that Glanbia had been treated in a manner consistent with past policies and practices for Schedule

19 customers. The Company further clarified what types of distribution facilities Schedule 19 customers use and how those facilities are treated under Schedule 19, Rule H¹, and Rule M².

On July 11, 2013, the Commission issued Order No. 32848 directing the parties to “file written comments discussing an appropriate calculation of an allowance for Glanbia’s proposed electric facilities upgrade.”³

On August 22, 2013, the Company and Glanbia filed Additional Comments and Staff filed Supplemental Comments. In its Additional Comments, the Company recommended, if the Commission determined an allowance was appropriate, a fixed allowance of \$197,202; Staff recommended a scalable, per megawatt (“MW”) allowance for a total allowance for Glanbia of \$1,248,946; and Glanbia recommended the entire cost of the substation, \$3,784,127, be provided as an allowance.

On September 19, 2013, the Commission issued its final Order No. 32893 directing the Company to (1) provide Glanbia with an allowance of \$1,248,946, (2) implement a new Schedule 19 allowance policy, (3) grant Glanbia a Vested Interest in the transmission facilities being constructed for a period of five years, and (4) ensure that Glanbia has access to excess capacity in the facilities for no less than five years.

II. REQUESTED CLARIFICATION

The Company understands that Commission Order No. 32893 creates a new substation allowance for Schedule 19 customers and it seeks clarification from the Commission as to how the allowance will be applied. The Company also seeks

¹ I.P.U.C. No. 29, Tariff No. 101, Rule H New Service Attachments and Distribution Line Installations or Alterations.

² I.P.U.C. No. 29, Tariff No. 101, Rule M Facilities Charge Service.

³ *In the Matter of the Petition of Glanbia Foods, Inc. for Approval of a Line Extension Allowance Pursuant to Idaho Power Company’s Rule H*, Case No. IPC-E-13-09, Order No. 32848 at 7.

clarification on the amount of excess capacity to be reserved and affirmation that Glanbia will provide Idaho Power with additional information in order to allow the Company to set aside such capacity for Glanbia. Finally, the Company seeks confirmation from the Commission that Vested Interest payments will not be collected from FERC jurisdictional customers.

A. Calculation of the Schedule 19 Allowance.

In its Order, the Commission states the total allowance will be “\$65,734 per MW times the number of megawatt capacity being added by the customer, resulting in an allowance to Glanbia in the amount of \$1,248,946.”⁴ The Company respectfully notes that Glanbia is only adding 7 MW of load to the system, not 19 MW. The Company is currently able to serve Glanbia with 12 MW of capacity from existing facilities—facilities that Glanbia did not pay for upfront and that are being recovered through rates paid by Glanbia and other customers. If the calculation is based upon a per MW basis *added by the customer*, then using \$65,734 per MW times the 7 MW of projected load added, the resulting maximum possible allowance would be \$490,138.

The Company believes a scalable allowance is appropriately applied based on incremental load added by the customer at a specific premise. Otherwise, if every industrial customer who requested an upgrade received an allowance based on existing load plus new load, the practice could lead to duplicative allowances over time and an inappropriate building of rate base. The Company believes that Glanbia already received a benefit akin to an allowance when it was not required to fund a substation Contribution in Aid of Construction (“CIAC”) in order to receive the 12 MW of existing capacity. While the record may not have been clear on this point, Glanbia is not

⁴ Case No. IPC-E-13-09, Order No. 32893 at 11.

relocating its load to a new site; rather, it requested a new transmission line and substation be constructed in lieu of a different, distribution only option to provide an additional 7 MW of load at the same customer premise.

While the Commission accepted Staff's recommendation on how to calculate a Schedule 19 allowance, the Commission may have based its determination on a misunderstanding regarding how other utilities might treat an expansion of this nature. In its Supplemental Comments, Staff states, "Furthermore, such an approach is consistent with the industrial line extension policies of both Avista and PacifiCorp, whose allowances increase with the size of the customer."⁵ Based upon Idaho Power's conversations with the other Idaho electric utilities, Staff's recommended allowance based on the full 19 MW of load is not consistent with how either Avista or PacifiCorp would apply an allowance under the circumstances as they exist in this case. Both Avista and PacifiCorp indicated an allowance in this case would have been based on the 7 MW of incremental load under their line extension policies, not the combined total of existing load plus the incremental load.

The Company believes this clarification is important not only in how it will calculate Glanbia's allowance, but to ensure a consistent and prudent approach for other requests going forward. A determination that allowances only apply to new or incremental load will ensure the Company is not duplicating previous allowances, overbuilding its system, or inappropriately adding to its rate base.

⁵ Case No. IPC-E-13-09, Staff Supplemental Comments at 7.

B. Reservation of “Excess Capacity.”

The Commission’s Order states, “Idaho Power must ensure that Glanbia has access to excess capacity in the facilities for no less than five years.”⁶ The Company stated in its Reply Comments that its “practice is to maintain capacity for a project that has been funded by an offsetting CIAC for a reasonable period of time,”⁷ and the project requested by Glanbia was to provide 19 MW of capacity (comprised of the existing 12 MW of capacity plus the additional 7 MW requested).

1. Clarification of “Excess Capacity.”

The Company has previously and will continue to commit to providing the customer with up to 19 MW of service for five years while Glanbia’s load comes on-line. This is consistent with the Company’s treatment of similar requests, as the Company does not “reserve capacity” in facilities paid for by a customer above and beyond a customer’s planned load because, as described in more detail below, such a reservation above a customer’s planned load would be inconsistent with the requirements to reserve transmission capacity set forth in the Company’s Open Access Transmission Tariff (“OATT”). The Company seeks clarification from the Commission that it will be required to provide service to Glanbia for up to the requested 19 MW, but not the total capacity of the proposed transmission line section and substation facilities paid for by Glanbia, for a period of five years.⁸ Glanbia would be entitled to up to 19 MW of service with no additional costs to be borne by Glanbia for that five-year period.

⁶ Order No. 32893 at 11.

⁷ Case No. IPC-E-13-09, Idaho Power Company’s Reply Comments at 12.

⁸ The proposed transmission line section will be constructed with a conductor having 144.6 megavolt ampere (“MVA”) of capacity. The proposed substation transformer will have a nameplate capacity of 30 MVA.

This treatment would be consistent with the Commission's Order to provide Glanbia with the opportunity to receive Vested Interest payments from other customers who may connect to the transmission facilities paid for by Glanbia. If the Commission were to order the Company to reserve the entire capacity of the transmission facilities, there would be no opportunity for Glanbia to receive Vested Interest payments because the Company would be precluded from allowing another customer to attach to those facilities. If the Commission intended for the Company to reserve the entire capacity of the facilities paid for by Glanbia, the Company seeks reconsideration of the Commission's Order requiring the Company to provide an opportunity for Vested Interest Refunds for Glanbia.

2. OATT Requirements.

If the Commission intends for the Company to reserve excess capacity for Glanbia, the Company would require Glanbia to provide an annually updated load forecast for the five-year Vested Interest period to ensure compliance with Idaho Power's OATT. This forecast allows Idaho Power to reserve the required transmission (establish a transmission network set aside) for Glanbia's load service under Part III of Idaho Power's OATT.⁹ An annually updated forecast for the five-year period would allow Idaho Power to designate resources and loads, as required in Section 28.2 of the Company's OATT. Additionally, Glanbia would need to provide Idaho Power with timely written notice of material changes in its load forecast. Section 2 of Idaho Power's

⁹ See Idaho Power's OATT, Part III, §§ 28.2, 31.6 (August 5, 2010), http://www.oasis.oati.com/IPC/IPCdocs/IPC_OATT_Issued_2012-11-06.pdf. Section 28.2 states that the Transmission Provider, Idaho Power, must designate resources and loads for its Native Load Customers, here Glanbia, in the same manner as a Network Customer. Section 31.6 states that Network Customers must provide the Transmission Provider, Idaho Power, with annual updates and timely written notification of material changes.

Transmission Business Practice defines a material change as an increase of greater than 1 MW.¹⁰

C. Collection of Vested Interest Payments.

The Commission also directed Idaho Power to grant Glanbia a Vested Interest in its transmission facilities.¹¹ While Idaho Power can grant a Vested Interest for customers taking Idaho jurisdictional service, this is problematic for FERC-jurisdictional transmission and interconnection service customers.

The line at issue is a 138 kilovolt transmission line.¹² FERC has exclusive jurisdiction over the transmission or sale of electric energy in interstate commerce and “all facilities for such transmission or sale of electric energy.”¹³ FERC requires all public utilities that own, control, or operate transmission facilities to have an open access transmission tariff, the goal of which is to eliminate undue discrimination or preference.¹⁴ As described in the Company’s Reply Comments, Idaho Power cannot apply a Vested Interest charge to FERC-jurisdictional customers.¹⁵ Any requirement for FERC-jurisdictional transmission customers to pay a Vested Interest payment to Glanbia would need to be approved by FERC and included in Idaho Power’s OATT, approval for which

¹⁰ Idaho Power’s Transmission Business Practice § 2 (February 25, 2013), http://www.oasis.oati.com/IPCO/IPCOdocs/IPC_BP_FINAL_Section_2_Network_Integration_Transmission_Service_v15_02-25-2013.pdf

¹¹ Order No. 32893 at 10-11.

¹² FERC defines a “transmission line” as “A system of structures, wires, insulators and associated hardware that carry electric energy from one point to another in an electric power system. Lines are operated at relatively high voltages varying from 69 kV up to 765 kV, and are capable of transmitting large quantities of electricity over long distances.” Federal Energy Regulatory Commission Reliability Standards, Glossary of Terms at 71 (February 11, 2013).

¹³ 16 U.S.C. § 824(b)(1).

¹⁴ *Non-discriminatory Open Access Transmission Tariff*, 18 CFR 35.28(a), (c) (2012); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh’g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007).

¹⁵ Idaho Power Company’s Reply Comments at 10-11.

would require a showing that the Vested Interest payment was just, reasonable, nondiscriminatory, and not a barrier to access.

Therefore, the definition of eligible customers should specifically exclude FERC-jurisdictional transmission and interconnection service customers. The Company seeks confirmation from the Commission that Idaho Power would not be required to collect a Vested Interest payment from a FERC-jurisdictional customer. The Company will collect Vested Interest payments for a period of five years from its retail customers and/or Public Utility Regulatory Policies Act of 1978 generators whose requests for service require connection to the transmission line paid for by Glanbia, provided that the Commission did not intend for the entire capacity of the transmission line be reserved for Glanbia.

III. CONCLUSION

Commission Rule of Procedure 331 requires that Idaho Power state the nature and extent of evidence or argument it will present or offer if reconsideration is granted. Should the Commission determine that any of the requested issues for clarification are more appropriate for reconsideration, Idaho Power believes that the evidentiary record could be augmented by written comments or oral argument at the discretion of the Commission, and the Company is prepared to do so in support of its Petition.

Idaho Power respectfully requests the Commission clarify and/or reconsider Order No. 32893 to clarify that:


- The Schedule 19 allowance will be calculated based on the additional/incremental load;

- The reservation of excess capacity in transmission facilities be based on the customer's planned load, allowing additional capacity to be available for Vested Interest Refunds by subsequent customers interconnecting;

- Glanbia will provide the Company with an annually updated load forecast for a period of five years; and

- Vested Interest payments will be collected from customers taking Idaho-jurisdictional transmission service, but not collected from customers subject to FERC jurisdiction.

Respectfully submitted this 10th day of October 2013.



LISA D. NORDSTROM
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of October 2013 I served a true and correct copy of IDAHO POWER COMPANY'S PETITION FOR CLARIFICATION AND/OR RECONSIDERATION OF ORDER NO. 32893 upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

Weldon B. Stutzman
Deputy Attorney General
Idaho Public Utilities Commission
472 West Washington (83702)
P.O. Box 83720
Boise, Idaho 83720-0074

☒ Hand Delivered
☐ U.S. Mail
☐ Overnight Mail
☐ FAX
☒ Email Weldon.Stutzman@puc.idaho.gov

Glanbia Foods, Inc.

Peter J. Richardson
Gregory M. Adams
RICHARDSON ADAMS, PLLC
515 North 27th Street (83702)
P.O. Box 7218
Boise, Idaho 83707

☐ Hand Delivered
☒ U.S. Mail
☐ Overnight Mail
☐ FAX
☒ Email peter@richardsonadams.com
greg@richardsonadams.com


Christa Bearry, Legal Assistant